



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Milwaukee County Department of Human Services, Petitioner

REHEARING

vs.

DECISION

██████████ Respondent

Case #: FOF - 167248

Pursuant to petition filed July 14, 2015, under Wis. Admin. Code §HA 3.03, and 7 C.F.R. § 273.16, to review a decision by the Milwaukee County Department of Human Services to disqualify ██████████ from receiving FoodShare benefits (FS) for a period of one year, a hearing was held on Wednesday, December 16, 2015 at 09:00 AM, at Milwaukee, Wisconsin.

This case was previously scheduled for a hearing on August 24, 2015. The respondent failed to appear for that hearing. The petitioner appeared and a hearing was held. On August 25, 2015 I issued a decision finding that the agency had shown by clear and convincing evidence that there was an intentional program violation. On October 12, 2015 the respondent called the Division of Hearings and Appeals. The respondent reported that she was not receiving mail, and provided a new address. I granted the rehearing request due to the lack of notice given the incorrect address. A new hearing was scheduled for November 18, 2015. Written notice of that hearing was sent to the respondent at the incorrect address. I rescheduled the hearing for December 16, 2015. Written notice of the hearing date and time was sent to the address that the respondent provided on October 12, 2015. The respondent failed to appear for the scheduled hearing on December 16, 2015.

I believe that it was an error to grant the respondent's rehearing request. Generally, a respondent has 30 days from the date of decision to request a rehearing if he or she did not receive the appropriate notice. Given the address change, I was not convinced that the respondent received the decision, and believed that her rehearing request in which she stated she did not receive notice was within 30 days of when she actually received my decision. However, I now know that notice of the December 18, 2015 hearing was provided to the respondent's correct address. The respondent still failed to call or show for that hearing. No hearing was held. Due to the respondent's failure to appear, the evidence and information presented at the August 24, 2015 remains unchanged. Thus, that original decision stands. I refer the parties to my decision issued on August 25, 2015.

PARTIES IN INTEREST:

Petitioner:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Tygiene Taylor
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, Wisconsin 53205

Respondent:

[REDACTED]
[REDACTED]
[REDACTED]

█

ADMINISTRATIVE LAW JUDGE:
Corinne Balter
Division of Hearings and Appeals

NOW, THEREFORE, it is ORDERED

That my decision issued on August 25, 2015 remains in effect. The petitioner's determination is sustained, and that the petitioner may make a finding that the respondent committed a first IPV of the FoodShare program and disqualify the respondent from the program for one year.

REQUEST FOR A REHEARING ON GROUNDS OF GOOD CAUSE FOR FAILURE TO APPEAR

In instances where the good cause for failure to appear is based upon a showing of non-receipt of the hearing notice, the respondent has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. See 7 C.F.R. sec. 273.16(e)(4). Such a claim should be made in writing to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

APPEAL TO COURT

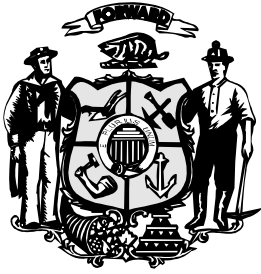
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, WI 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing request (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of December, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals

c: Miles - email
Public Assistance Collection Unit - email
Division of Health Care Access and Accountability - email
Pamela Hazley - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAMail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 17, 2015.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability
Pamela.Hazley@dhs.wisconsin.gov